

CRIMINAL COURT PROCEDURE

in England and America

By FLORENCE E. MAYBRICK



Nan Patterson's Trial in New-York City Contrasted With Her Own Trial



It often has been said to me since my return to America that a travesty of justice, such as marked my case in England, would be utterly impossible under a form of law in any part of this country, and the opinion also has found frequent expression in the public press. In view of the fifteen years of bitter experience which a judicial misdirection (to call the proceedings by no harsher name) forced me to undergo, I trust it will not seem altogether strange that I should have felt a desire to witness some part of a trial in my native land, provided it could be arranged without attracting public notice, under circumstances where the person accused of a capital offense should be a woman, and the evidence, as in my case, wholly circumstantial.

When, therefore, a recent trial of extraordinary public interest presented to a marked degree the salient features desired, and a friend at court not only placed his protection at my service, but also the advantage of a retired yet favorable nook from which to observe the proceedings, I felt that an opportunity so exceptional might not be lightly passed over. And accordingly, under the guidance of one well versed in the ways of American courts, I was enabled to possess myself not only of material for a comparison of judicial procedures, but also to note how, in what is happily again my country, a person accused of a crime is not only considerably safe-guarded by both the community and the law against which she is suspected of being an offender, but that by the treatment accorded her on every side it is made clear that it is not in theory only, but in practice as well, that she is held here inviolably to be innocent until beyond any reasonable doubt proved guilty.

From what I had been told, I naturally expected to see marked differences in both procedure and treatment from English ways. Yet hopeful as I was of witnessing a state of things far better than fell to my experience, I hardly conceived it possible that between two countries so alike in blood, speech and religion as England and America a contrast so great could exist. And while it was with feelings of pride in my countrymen and thanksgiving from a full heart that I observed the altogether humane way in which the unfortunate are here treated, on the other hand it was nearly impossible amid such uplifting surroundings to rid myself of the feeling that through some juggle of time all that I had so needlessly and cruelly undergone, both during the weary months of preliminary detention and the heart-crushing days of my protracted trial, happened not in enlightened, Christian England, but in some remote region still under the influence of the dark ages.

During the months preceding my trial, while detained in Walton jail, excepting the short hour devoted to physical exercise and a half-hour of chapel service, to all intents and purposes I was in solitary confinement. By way of contrast, I find that here in New-York the female prisoners in the "Tombs" (a well-lighted building adjoining the court) awaiting trial during the entire day have the freedom of a commodious corridor or hall, with such community life as each, under the circumstances, may make for herself.

In England, for some inscrutable reason, the jails and the places where the assizes are held are almost invariably long distances apart, especially in the larger cities, and the daily transport of prisoners from jail to court and back again in every respect is an outrage on the humanities; while here in New-York the person accused of a crime (and mayhap innocent) passes quietly in charge of a "plain clothes" deputy-



From
the
Mural
Paintings.

Criminal
Courts
Building,
New-York

sheriff from one place to the other, thus involving neither hardship nor public notice.

The torture I was forced to undergo in going to and from court almost passes belief. At Walton jail I was packed into a closed van—somewhat smaller, perhaps, but in appearances not unlike the furniture vans one sees on the streets—and for three hours each day, going and returning, more than once within its narrow limits was forced into fellowship with the lewd and

vicious—with beings foul in person as well as speech—who perchance also were on their way to trial or penal punishment. I never recall this experience without an overwhelming sense of wrong, of unutterable repulsion, of indignant protest, because it seems to me now even more than it did then a wholly gratuitous form of torture. What such an infliction was to a sensitive and delicate woman in my position, as a preparation for the ordeal of trial in court, may be left to the reader's imagination. In the last days, because of a threatened collapse, on the recommendation of the prison medical officer I was allowed a carriage, and against this concession to the humanities there was an almost universal outcry in the public press.

As I entered the spacious court-room where the trial of the young woman was proceeding, I could hardly trust my eyes. It was fairly flooded with light, and all its belongings seemed in cheerfulest keeping. One could not imagine easily an English court-room a place for the display of decorative art, yet here the walls in softest colors pictorially typified Justice in such various ideal forms as only the fancy of poet and painter might portray.

On the other hand, anything more soul-crushing than the impression that an average English court-room, with its somber fittings, its solemn ceremonials, its black gowns and antiquated wigs, makes upon anyone so unfortunate as to be arraigned at its bar it is difficult to conceive. In England everything possible has been done to magnify the position of the judge, and at the same time to degrade and reduce to utter ignominy the unfortunate wretch in the dock. Whatever the intention or theory of the setting up of legal machinery in England may be, it is certain that in practice (at least as far as my observation and experience stand in proof) strict justice has little part in it, the only apparent object and aim of it all being conviction—for it is a stigma on the police if a person once brought into court for trial by any chance slips through their meshes.

Accordingly, arrangements are so ordered that a conviction if possible follows *volens volens*, for aside from the supposed disgrace that attaches to failure, it frequently means also a loss of fees and rewards to nearly all concerned in the prosecution.

To properly impress the community with the awesomeness of the task before him, the justice before opening the assizes solemnly proceeds in state, in an official carriage, to a special divine service. How this as a mode of preparation on the judicial side, contrasts with the prisoner's, by way of her unspeakable van journey, hardly need be pointed out. And, to bring the accused wretch still further into a fit and proper state of mind to appear in the presence of the personified majesty of the law, on arrival at the court she is detained for a good part of an hour in the gloomiest of subterranean cells, flanked by ever-silent guardians.

And when finally the fanfare of trumpets makes proclamation that the arbiter of life and death in all the panoply of his exalted office has taken his seat, the prisoner, after threading various dark passages, ascends to the upper region by a long, stone stairway, suddenly to find herself in what is technically called the "dock"—an elevated and inclosed platform, situated nearly in the center of the court-room. From this unenviable vantage she now literally looks down upon everybody, except the judge, who occupies an equally high place facing the prisoner, while the "benches" of counsel (and such they are) and the bar of the circuit, as well as members of the press, occupy the floor space between these two rostrum-



Florence Elizabeth Maybrick

From Her Most Recent Photograph